

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CHRISTOPHER ERIC GAVAZZA,

Plaintiff,

vs.

No. CIV 14-0586 JB/CG

SUSAN CALEY, R.N., and
ASHLEY LNU, Nurse,

Defendants.

ORDER OF DISMISSAL WITHOUT PREJUDICE

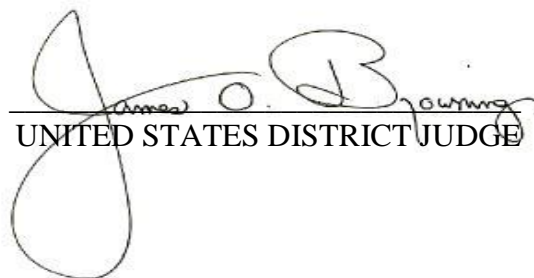
THIS MATTER comes before the Court to consider Plaintiff Christopher Eric Gavazza's failure to respond to the Order to Show Cause, filed on March 6, 2015 (Doc. 12)("Order"). In the Order, the Honorable Carmen E. Garza, United States Magistrate Judge for the District of New Mexico ordered Gavazza to file, on or before March 27, 2015, "a response providing a current address for serving process on Defendant Nurse [Ashley], or show cause why his claims against this Defendant should not be dismissed." Order at 1. See Washington v. Correia, 546 F. App'x 786, 789 (10th Cir. 2013)(unpublished)¹(noting that it "furthers an important governmental interest in conserving scarce judicial resources to place the onus squarely on plaintiffs to track down the whereabouts of defendants to effectuate service --

¹Washington v. Correia is an unpublished opinion, but the Court can rely on an unpublished opinion to the extent its reasoned analysis is persuasive in the case before it. See 10th Cir. R. 32.1(A), 28 U.S.C. ("Unpublished opinions are not precedential, but may be cited for their persuasive value."). The Tenth Circuit has stated: "In this circuit, unpublished orders are not binding precedent, . . . and . . . citation to unpublished opinions is not favored. . . . However, if an unpublished opinion . . . has persuasive value with respect to a material issue in a case and would assist the court in its disposition, we allow a citation to that decision." United States v. Austin, 426 F.3d 1266, 1274 (10th Cir. 2005). The Court finds that Washington v. Correia has persuasive value with respect to a material issue, and will assist the Court in its disposition of this Order of Dismissal Without Prejudice.

rather than obliging the courts to assist in this endeavor -- even when the plaintiffs are in prison”). Judge Garza warned Gavazza that “[f]ailure to comply with this Order may result in dismissal of Plaintiff’s claims against this Defendant.” Order at 1.

Gavazza has failed provide a current address for Ashley or to show cause why the Court should not dismiss his claims against this Defendant. Because Gavazza failed to respond to the Order, the Court will dismiss his claims against Ashley without prejudice.

IT IS ORDERED that the Plaintiff Christopher Eric Gavazza’s claims against Defendant Ashley LNU, Nurse are dismissed without prejudice, and Ashley is dismissed as a party to this action.



UNITED STATES DISTRICT JUDGE

Parties and counsel:

Christopher Eric Gavazza
Chavez County Detention Center
Roswell, New Mexico

Plaintiff pro se

Mary M. Behm
Michelle Lalley Blake
Keleher & McLeod
Albuquerque, New Mexico

Attorneys for Defendant Susan Caley, R.N.